

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JONPLAIR RAY-DARK	CIVIL ACTION – LAW
	NO.
Plaintiffs	
v.	NOTICE OF REMOVAL AND COPIES OF ALL PROCESS AND PLEADINGS
COLIN HUSSEY and RYDER TRUCK RENTAL, INC.	
Defendant	

NOTICE OF REMOVAL AND COPIES OF ALL PROCESS AND PLEADINGS

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants, Colin Hussey and Ryder Truck Rental, Inc., submit the following Notice of Removal from the Court of Common Pleas of the Commonwealth of Pennsylvania, County of Philadelphia, the Court in which the above-referenced matter is now pending, to the United States District Court for the Eastern District of Pennsylvania. In support of its Notice of Removal, Defendants state as follows:

Nature of Action

1. This action arises from a December 23, 2020 motor vehicle accident at or near the intersection of Belmont Avenue and West Girard Avenue in Philadelphia County, Pennsylvania. (*See* Plaintiff’s Complaint, at ¶ 4, attached hereto as Exhibit “A”.)

2. Plaintiff commenced this action on November 8, 2022 by filing a Complaint in the Court of Common Pleas of the Commonwealth of Pennsylvania, County of Philadelphia, bearing docket number November Term 2022 No. 0952.

3. Pursuant to 28 U.S.C. § 1446(a), Defendants attached copies of all process, pleadings and orders served upon them, including: A true and correct copy of Plaintiff's Complaint, attached hereto as Exhibit "A."

Timeliness of Removal

4. Defendant Ryder Truck Rental, Inc. ("RTR") was served with the Complaint on December 2, 2022.

5. This Notice of Removal is being filed within thirty (30) days after service of Plaintiff's Complaint, and is therefore timely pursuant to 28 U.S.C. § 1446(b).

Amount in Controversy

6. A defendant's notice of removal need only include a "plausible allegation" the amount in controversy exceeds the jurisdictional threshold. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014) (citing 28 U.S.C. § 1446(a)).

7. In his Complaint, Plaintiff, Jonplair Ray-Dark, demanded an amount in excess of the arbitration limits (\$50,000) against Defendants. (*See* Exhibit "A" at the Wherefore clause after ¶¶15, 17 and 20).

8. Plaintiff claims permanent and serious injuries to his neck, back, right knee and right shoulder. (*See* Exhibit "A" at ¶10).

9. Therefore, the amount in controversy in this case as alleged exceeds \$75,000, exclusive of interest and costs.

Diversity of Citizenship

10. 28 U.S.C. §1441(a) provides that a state court action over which a district court of the United States would possess original jurisdiction may be removed to the district court for the district and division embracing the place where the state court action is pending.

11. A district court shall have original jurisdiction over a proceeding wherein the matter in controversy exceeds \$75,000 and is between citizens of different states. 28 U.S.C. §1332(a).

12. A corporation shall be deemed to be a citizen of the state in which it is incorporated and the state of its principal place of business. 28 U.S.C. §1332(c)(1).

13. A natural person is deemed to be a citizen of the state where he is domiciled. *Swiger v. Allegheny Energy*, 540 F.3d 179, 181 (3d Cir. 2008)(citing *Gilbert v. David*, 235 U.S. 561, 569 (1915)).

14. Plaintiff, Jonplair Ray-Dark, resides at 4748 North Marvine Street, Philadelphia, Pennsylvania 19141. (See Exhibit “A” at ¶1).

15. Defendant Colin Hussey has yet to be served with the Complaint such that his citizenship is irrelevant to the diversity of citizenship analysis. Additionally, Plaintiff alleges that Defendant Hussey resides at 1304 Hancock Drive, Barrington, NJ 08007-1630. (See Exhibit “A” at ¶2).

16. Defendant Ryder Truck Rental, Inc. is a citizen of Florida where it is incorporated and has its principal place of business.

17. Pursuant to 28 U.S.C. § 1332 (c)(1), full diversity exists among all parties in this action because the defendants are citizens of states other than the state where Plaintiff is a citizen.

Plea for Removal

18. 28 U.S.C. §1441(a) provides that a state court action over which a district court of the United States would possess original jurisdiction may be removed to the district court for the district and division embracing the place where the state court action is pending.

19. There is complete diversity of citizenship and the amount in controversy exceeds the jurisdictional requirement of seventy-five thousand dollars (\$75,000.00). Therefore, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 and removal of this proceeding to this Court is proper pursuant to 28 U.S.C. § 1441.

20. No properly joined and served defendant is a citizen of the forum state of Pennsylvania such that removal is not precluded by 28 U.S.C. §1441(b).

21. All properly joined and served Defendants consent to removal.

22. Since the Philadelphia County Court of Common Pleas is located within the Eastern District of Pennsylvania, removal of this case to the United States District Court for the Eastern District of Pennsylvania is proper because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. §1441(a).

23. Written notice is being given to all parties and to the Clerk of the Court of Common Pleas of the Commonwealth of Pennsylvania, County of Philadelphia, that this Notice of Removal is being filed with this Court.

WHEREFORE, Defendants, Colin Hussey and Ryder Truck Rental, Inc., respectfully request that the entire state court action under Docket No. November Term 2022 No. 0952 currently pending in the Court of the Common Pleas of the Commonwealth of Pennsylvania, County of Philadelphia, be removed to this Court for all further proceedings.

GOLDBERG SEGALLA LLP

STEPHEN A. SHEINEN

BY:

Dated: 12/29/2022

SEAN T. STADELMAN, ESQUIRE

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Attorneys for Defendants

Colin Hussey and Ryder Truck Rental, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the date shown below, a true and correct copy of the foregoing Notice of Removal was served upon the following via the Court's ECF System:

Joseph LaRosa, Esquire
J Fine Law Group, PC
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Philadelphia, PA 19103

GOLDBERG SEGALLA, LLP

STEPHEN A. SHEINEN

STEPHEN A. SHEINEN, ESQUIRE

Attorneys for Defendants

Colin Hussey and Ryder Truck Rental, Inc.

Date: 12/29/2022

